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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

4 Mar 21, 2022
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6 SEAN F. McAVOY, CLERK
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

GABRIEL ECKARD,

9 Plaintiff,
10 v.
11 SGT. DEAN MULLINS, C/O
12 MICHAEL GARCIA and C/O
MICHAEL GARCIA'S PARTNER,
13 Defendants.

NO: 4:22-CV-05009-RMP
ORDER DENYING LEAVE TO
PROCEED *IN FORMA PAUPERIS*
AND DISMISSING ACTION

14
15 On February 17, 2022, the Court directed Plaintiff Gabriel Eckard, a *pro se*
16 prisoner at the Washington State Penitentiary, to show cause within thirty (30)
17 days why the Court should grant his application to proceed *in forma pauperis*.
18 ECF No. 5 at 5. In the alternative, Plaintiff could have paid the \$402.00 filing fee.
19 *Id.* Plaintiff did not comply with these directives and has filed nothing further in
20 this action.

Liberally construing this action in the light most favorable to Plaintiff, the Court finds that he was failed to overcome the preclusive effects of 28 U.S.C. § 1915(g). *See O’Neal v. Price*, 531 F.3d 1146, 1153 (9th Cir. 2008). Because Plaintiff did not avail himself of the opportunity to pay the \$402.00 filing fee, he may not proceed with this action.

Accordingly, IT IS HEREBY ORDERED:

1. Plaintiff's application to proceed *in forma pauperis*, ECF No. 2, is **DENIED**.
2. This action is **DISMISSED WITHOUT PREJUDICE** for non-payment of the filing fee as required by 28 U.S.C. § 1914.
3. All pending motions are **DENIED AS MOOT**.
4. The District Court Clerk shall **CLOSE** the file.
5. The Court certifies any appeal of this dismissal would not be taken in good faith.

IT IS SO ORDERED. The District Court Clerk is directed to enter this Order, enter judgment, and provide copies to Plaintiff.

DATED March 21, 2022.

s/ Rosanna Malouf Peterson
ROSANNA MALOUF PETERSON
Senior United States District Judge